Case 3:98-cv-00009-TMB Document 663 Filed 08/28/2006

BAROKAS MARTIN & TOMLINSON 1029 West Third, Suite 280 Anchorage, Alaska 99501 Phone: (907) 276-8010 Fax: (907) 276-5334

Page 1 of 3

28

26

27

STATE OF ALASKA ) ss.
THIRD JUDICIAL DISTRICT )

Herbert A. Viergutz, being first duly sworn upon oath, deposes and states as follows:

- 1. I am bad faith counsel of record for USF&G, in the above captioned matter.
- 2. The Court ordered at Docket No. 660 that it was unlikely to vacate and reestablish the January 5 and January 12, 2007 pretrial deadlines, as requested by counsel for USF&G at the most recent Status Conference, unless other counsel agree. Attached hereto is the e-mail correspondence (Exhibit A hereto) from the undersigned dated August 18,2006 indicating a preference that the January 5, 2007 deadlines be vacated and rescheduled for December 22, 2006. Additionally, counsel requested that the January 12, 2007 Pretrial Conference be scheduled subsequent to January 15, 2007. Counsel for Plaintiff, North Star, did not oppose vacating the referenced dates but preferred that the Court reestablish the January 5 deadlines for December 22, 2006. Counsel for Spencer Rock Products, Inc., and Robert A. LaPore agreed. Counsel for Plaintiffs, Metco and Shoreside, did not oppose vacating the January 5 deadlines but requested that they be recalendared for January 19, 2007, as did counsel for Defendant, Nugget.
- 3. The undersigned respectfully requests the Court to issue an Order vacating the January 5 and January 12, 2007 Pretrial deadlines and reestablish the same either for December 22, 2006 or January 19, 2007, with the Pretrial Conference date of January 12, 2007 also being vacated and rescheduled for subsequent to January 15, 2007, at the Court's convenience.

BAROKAS MARTIN & TOMLINSON 1029 West Third, Suite 280 Anchorage, Alaska 99501 Phone: (907) 276-8010

Fax: (907) 276-5334

1

2

3

4

5 6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23 24

25

26

27 28 FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 28th day of August, 2006.

SUBSCRIBED AND SWORN TO before me this 28th day of August, 2006.

Notary Public in and for Alaska My Commission Expires: 11/17/06

**CERTIFICATE OF SERVICE** 

I HEREBY CERTIFY that a copy of this document was served by electronic notification on this 28th day of August, 2006, to:

Michael W. Sewright, Esq. Burr. Pease & Kurtz 810 N Street Anchorage, AK 99501

Paul Stockler, Esq. 1309 West 16th Avenue Anchorage, AK 99501

Tom Krider, Esq. Traeger Machetanz, Esq. Oles Morrison Rinker & Baker, LLP 745 4th Avenue, Suite 502 Anchorage, AK 99501-2136

Steven J. Shamburek, Esq. Law Office of Steven J. Shamburek 425 G Street, Suite 630 Anchorage, AK 99501-5872

s/ Herbert A. Viergutz

**BAROKAS MARTIN & TOMLINSON** 1029 West Third, Suite 280 Anchorage, Alaska 99501 Phone: (907) 276-8010

Fax: (907) 276-5334